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Filing date: **09/18/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217787
Party	Defendant 3D INTERNATIONAL LLC
Correspondence Address	Tuncer Goren 3D INTERNATIONAL LLC 20724 CENTRE POINTE PKWY UNIT 1 SANTA CLARITA, CA 91350-2980 serra@3dproducts.com
Submission	Answer
Filer's Name	Thomas W. Cook
Filer's e-mail	kay@thomascooklaw.com
Signature	/Thomas W. Cook/
Date	09/18/2014
Attachments	2014 09 18 Answer to 3M as filed and served.pdf(173394 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In Re Serial No. 86/117215
Filed: November 13, 2013
Mark: 3D
Published: February 11, 2014

3M Company,

Opposer

Opposition No. 91217787

v.

3D International LLC,

Applicant

APPLICANT'S ANSWER
TO NOTICE OF OPPOSITION

ANSWER AND AFFIRMATIVE DEFENSES

3D International LLC., hereinafter referred to as "Applicant," by its attorney responds as follows to the Notice of Opposition filed on August 11, 2014, by 3M Company, hereinafter referred to as "Opposer."

Applicant hereby responds, solely for the purpose of this proceeding to each of the grounds set forth in the Notice of Opposition, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Notice of Opposition, and therefore denies same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Notice of Opposition, and therefore denies same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Notice of Opposition, and therefore denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Notice of Opposition, and therefore denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Notice of Opposition, and therefore denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Notice of Opposition, and therefore denies same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Notice of Opposition, and therefore denies same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Notice of Opposition, and therefore denies same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Notice of Opposition, and therefore denies same.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Notice of Opposition, and therefore denies same.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Notice of Opposition, and therefore denies same.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Notice of Opposition, and therefore denies same.

14. Applicant admits the allegations in paragraph 14 that it filed the U.S. application, serial number 86117215 for the mark 3D identifying “degreasing preparations not used in manufacturing processes for use on engines, tires, wheels, machinery, tools and floors; soaps and

detergents for automobile finished surfaces; carpet shampoo; carpet cleaner with deodorizer; upholstery cleaners for automobile carpeting and upholstery; preparations for cleaning, protecting and preserving vehicle surfaces, namely, vinyl tops, carpets, upholstery, magnesium wire wheels and chrome spokes; glass cleaners; gum remover; adhesive remover; tar remover; automobile interior and exterior dressings in the nature of wipe-on pastes and aerosol sprays used for protecting, cleaning, restoring and beautifying rubber, vinyl, and leather surfaces; automobile wax for cleaning, glazing, sealing and shining paint, glass, metal, leather, vinyl, plastic, and wood surfaces; and general purpose cleaning, polishing, and abrasive liquids and powders,” in Class 003, which application was filed November 13, 2013.

15. Applicant admits the allegation set forth in paragraph 15 that “Applicant alleges in the application that it first used the mark 3D in commerce on September 20, 1994.”

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 of the Notice of Opposition, and therefore denies same.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Notice of Opposition, and therefore denies same.

18. Applicant denies the allegations in paragraph 18 that “Applicant’s mark 3D is confusingly similar to Opposer’s 3M Mark in sight, sound, meaning, and overall commercial impression.”

19. Applicant denies the allegations in paragraph 19 that “Applicant’s mark 3D, as displayed on Applicant’s website at 3dproduct.com, imitates the famous 3M Mark,” as shown in the Notice of Opposition.

20. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20 of the Notice of Opposition, and therefore denies same.

21. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Notice of Opposition, and therefore denies same.

22. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 of the Notice of Opposition, and therefore denies same.

23. Applicant admits the allegations in paragraph 23 if Opposer means to say Opposer has not given Applicant express permission to use or register the mark 3D, and Applicant states that Applicant has not requested Opposer grant “permission or approval to use or register the mark 3D.”

24. Applicant denies the allegations in paragraph 24 that “Applicant’s mark 3D so resembles Opposer’s 3M Mark as to be likely, when used on or in connection with the identified products of Applicant, to cause confusion, or to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to mistakenly believe that the goods Applicant offers under the mark 3D are produced, sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or its 3M Mark.” While the remainder of Opposer’s paragraph 24 is not an allegation of fact, Applicant requests Opposer’s request (that registration of Applicant’s application should be refused) be denied .

25. Applicant denies the allegations in paragraph 25 that “The mark 3D is also likely to cause dilution by blurring of Opposer’s famous 3M Mark. While the remainder of Opposer’s paragraph 25 is not an allegation of fact, Applicant requests Opposer’s request (that registration of Applicant’s mark should be refused) be denied.

26. Applicant denies the allegations in paragraph 26 that “Registration of the mark 3D would damage Opposer because it would confer upon Applicant statutory presumptions to which it is not entitled in view of Opposer’s long-standing prior use and registration of its 3M Mark.”

AFFIRMATIVE AND SPECIAL DEFENSES

27. If the allegations in the Notice of Opposition are accurate, Opposer has failed to enforce any rights in its alleged mark for many years.

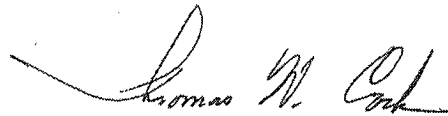
28. If the allegations in the Notice of Opposition are accurate, Opposer's mark and Applicant's mark have co-existed for many years.

29. Upon information and belief, there has been no actual confusion between Opposer's alleged mark and Applicant's mark.

30. Opposer's claim is barred, in whole or in part, by the doctrines of laches, estoppel, waiver and acquiescence.

WHEREFORE, Applicant respectfully prays that this Notice of Opposition be dismissed in its entirety, with prejudice, and that the application, serial number 86117215, proceed to registration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas W. Cook", is written over a horizontal line.

Dated: September 18, 2014


Thomas W. Cook, Reg. No. 38,849
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CERTIFICATE OF SERVICE BY U.S. MAIL, 37 C.F.R. § 2.119(a)

I hereby certify that the attached true and correct copy of the Applicant'S ANSWER TO NOTICE OF OPPOSITION is being deposited with the United States Postal Service as first-class mail in an envelope addresses to:

Jered E. Matthyse
Pirkey Barber PLLC
600 Congress Avenue, Suite 2120
Austin TX 78701

on September 18, 2014



Kay Horne